

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**KELVIN L. BRADLEY,**

**Case No. 3:-05-CV-314**

**Plaintiff,**

**-vs-**

**Judge Thomas M. Rose**

**ROBERT DEWITT, et al.,**

**Magistrate Judge Sharon L. Ovington**

**Defendants.**

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**ENTRY AND ORDER OVERRULING BRADLEY'S OBJECTIONS (Doc. #47) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #46) REGARDING THE DISMISSAL OF BRADLEY'S CLAIMS; STRIKING BRADLEY'S SUPPLEMENTAL OBJECTION TO THE REPORT AND RECOMMENDATIONS (Doc. #50); ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS DISMISSING BRADLEY'S COMPLAINT WITH PREJUDICE AND TERMINATING THIS CASE.**

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This matter is before the Court pursuant to pro se Plaintiff Kevin L. Bradley's ("Bradley's") objections (doc. #47) to the Report and Recommendations of Magistrate Judge Sharon L. Ovington (doc. #46). The Report and Recommendations are in regard to Defendants' Scott Curnutte and Nick Selvaggio's Motion for Judgment On the Pleadings (doc. #30) and Defendants' Robert DeWitt, Timothy Bostic, Mike Gibson and the Village of Mechanicsburg's (the "Mechanicsburg Defendants") Motion To Dismiss (doc. #32).

In her Report and Recommendations filed on December 15, 2006, Magistrate Judge Ovington recommends that Bradley's claims be dismissed with prejudice. Bradley then filed his objections (doc. #47) and both sets of defendants responded to Bradley's Objections. (Doc. #48, 49)

Bradley next filed a Supplemental Objection To Report and Recommendations. (Doc. #50.) The Mechanicsburg Defendants then moved to strike Bradley's Supplemental Objections (doc. #51) to which Bradley responded (doc. #52). The Mechanicsburg Defendants argue that Bradley's supplemental objections should be struck because the time has passed for filing objections to the Report and Recommendations and the supplemental objections attaches evidentiary materials which are inappropriate for determination of a Rule 12 Motion.

The District Judge has made a de novo review of the record on this matter pursuant to 28 U.S.C. § 636(b) and Fed.R.Civ.P. 72(b). Upon consideration of the foregoing, the Court finds that Bradley's objections are not well-taken and they are hereby **OVERRULED**.

Also, Bradley's supplemental objections are **STRUCK** because they were not timely filed. Further, had they have been timely filed, they are without merit.

The Magistrate Judge's Report and Recommendations regarding dismissal of Bradley's claims is **ADOPTED**. The Mechanicsburg's Defendants' Motion To Dismiss (doc. #32) is **GRANTED IN PART** as to all of Bradley's claims except Bradley's Fourth Amendment excessive force claim against Defendant DeWitt. The Mechanicsburg Defendants' Motion to Dismiss (doc. #32) is **DENIED IN PART** as to Bradley's Fourth Amendment excessive force claim against Defendant DeWitt. Bradley's Fourth Amendment excessive force claim against Defendant DeWitt is, however, *sua sponte* **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2).

Also, Bradley's claims against Defendants Curnutte and Selvaggio are *sua sponte* **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2). Defendants Curnutte and Selvaggio's Motion for Judgment On the Pleadings (doc. #30) is, therefore, deemed **MOOT**.

Finally, The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton. The Clerk is ordered to provide a copy of this Entry and Order to Mr. Bradley at his address of record.

**DONE** and **ORDERED** in Dayton, Ohio, this Seventeenth day of April, 2007.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record  
Kevin L. Bradley